

RICHARD J. HAYES, JR.

ATTORNEY AT LAW

13809 BLACK MEADOW ROAD
GREENWOOD PLANTATION
SPOTSYLVANIA, VIRGINIA 22553

PRACTICE LIMITED TO MATTERS BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

ORIGINAL

ADMITTED IN GEORGIA

TELEPHONE (703) 972-7941

May 28, 1993

Ms. Donna R. Searcy, Secretary
The Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

RE: Petition to Amend the FM Table of Allotments (73.202(b))
Columbiana Broadcasting Company, Petitioner
Columbiana, Alabama

Dear Ms. Searcy:

Transmitted herewith, on behalf of Columbiana Broadcasting Company, is an original and five copies of a "Petition to Amend the FM Table of Allotments."

Columbiana Broadcasting Company, Inc. requests FCC consideration of the allotment of Channel 268 to Columbiana, Alabama as that community's first, local FM service. Columbiana Broadcasting Company will apply for the new channel, if allotted, and if awarded the construction permit, will promptly construct the facility.

Should any questions arise regarding this matter, please communicate with the undersigned directly.

Respectfully submitted,

By: *R. Hayes*

Richard J. Hayes, Jr., Esq.
Counsel to Columbiana Broadcasting
Company

RJH:lss
Enclosures

No. of Copies rec'd 045
List A B C D E

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON D.C. 20554

RECEIVED

JUN - 2 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In The Matter of:

Amendment of Section 73.202(b))	
Table of Allotments)	BC Docket No. _____
FM Broadcast Stations)	FM No. _____
Columbiana, Alabama)	

TO: Chief, Allocations Branch

PETITION FOR RULE MAKING

Comes now, Columbiana Broadcasting Company, through counsel, and pursuant to the provisions of Section 1.401 and Section 1.420 of the Commission's Rules (47 C.F.R. 1.401), requesting that the Table of Allotments in Section 73.202(b) of the Federal Communications Commission's Rules and Regulations be amended.

Columbiana Broadcasting Company hereby requests that the FM Table of Allotments in Section 73.202(b) be amended to include a new, first broadcast service at Columbiana, Alabama on Channel 268. Columbiana Broadcasting Company seeks that the FM Table of Allotments be amended, as follows:

Location	Present	Proposed
Columbiana, Alabama	—	268

There are compelling, public interest justifications for granting this rule making, and in support thereof, the following is shown:

I. PRELIMINARY STATEMENT

A. First, Local, FM Broadcast Service

The purpose of this request is to provide a much needed, first, local FM broadcast service to the community of Columbiana, Alabama. At present, Columbiana, Alabama does not enjoy the service of either an AM or FM facility within its community. The Petitioner proposes that the Commission amend the FM Table of Allotments to allot Channel 268 to Columbiana, Alabama as that community's first, local, FM broadcast service.

B. Efficient Utilization of FM Spectrum

Such an amendment of the FM Table of Allotments would further the Commission's goal of providing a more efficient use of the FM Spectrum by providing a first, local FM broadcast service at Columbiana, Alabama. The Amendment of Section 73.202(b) of the Commission's rules to include Channel 268 at Columbiana, Alabama, would provide coverage to a substantial area and population. The city of Columbiana, Alabama has a population of 2,968 persons based upon the 1990 U.S. Census data. The county population is 87,800. According to the attached "Engineering Exhibit," a new FM broadcast

facility at Columbiana, Alabama would provide service to 82,576 persons in an area of 2,508 square kilometers. Obviously, a new FM broadcast service at Columbiana, Alabama would be an efficient utilization of scarce FM broadcast channel resources and would provide service to a large and growing community. Certainly, the citizens of Columbiana and, additionally, those citizens in the predicted 1 mV/m contour of the proposed facility, would benefit from a first, full time, local FM broadcast service. No other person or community has expressed any interest in this channel at Columbiana, Alabama.

II. ENGINEERING CONSIDERATIONS

A. Substantial Area to Receive Additional Service

Petitioner's engineering exhibit, as attached, provides an analysis of a complete search of the FM band. That study concludes that Channel 268 would provide city-grade coverage to Columbiana, Alabama. Channel 268 could be allotted, consistent with the mileage separation and city-grade service requirements of the Commission's rules. The consideration of all factors shows that this proposal can be accommodated and that Channel 268 can be added to the FM Table of Allotments at Columbiana, Alabama without

jeopardizing any other community or facility. No community would lose any present or potential service and a substantial area of service would be added if this proposed allocation is granted.

III. PETITIONER'S INTENTION TO APPLY FOR CHANNEL 268

If these proposed changes are implemented by the Commission, the Petitioner intends, pursuant to the rules of the Commission, to file an application for a construction permit, and if awarded the permit, to promptly construct the facility. Financially, the Petitioner is more than qualified to construct and operate the facility sought.

IV. SUMMARY

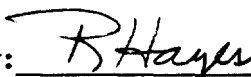
No community will lose any present or proposed service as a result of a grant of this "Petition for Rule Making" and, furthermore, a substantial new area of service will be added. As indicated above, a grant of this "Petition" will provide a much needed, first, local, FM broadcast service to Columbiana, Alabama. This "Petition" would, if granted, provide for an efficient utilization of broadcast resources.

Therefore, in view of the foregoing facts, Petitioner requests that

Petition for Rule Making
Page 5

the FM Table of Allotments (Section 73.202(b)) be amended to allot Channel
268 to Columbiana, Alabama.

Respectfully submitted,
Columbiana Broadcasting Company

By: 
Richard J. Hayes, Jr., Esquire
Its Attorney

Date: May 28, 1993

Richard J. Hayes, Jr., Esq.
13809 Black Meadow Road
Spotsylvania, Virginia 22553
(703) 972-2690

In the Matter of:

Amendment of Section 73.202(b))	
Table of Allotments)	MM Docket No. _____
FM Broadcast Stations)	RM No. _____
Columbiana, Alabama)	

NOTICE OF PROPOSED RULE MAKING

Adopted:

Released:

By the Chief, Policy and Rules Division:

1. The Commission has before it, for consideration, the "Petition for Rule Making," submitted by Columbiana Broadcasting Company requesting the allotment of Channel 268 to Columbiana, Alabama.

2. Channel 268 can be allotted to Columbiana, Alabama in compliance with the Commission's minimum distance separation requirements, as evidenced in the attached engineering statement. Petitioner states that the public interest would benefit from the allocation of this channel as it could provide Columbiana with its first, local, wide-area aural service.

3. In order to effectuate this proposal, the Commission proposes to amend the Table of Allotments, Section 73.202(b) of the Commission's Rules with respect to the following community:

Present

Proposed

Columbiana, Alabama

—

268

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

6. Interested parties may file "Comments" on or before _____,

Notice or Proposed Rule Making
Page 2

and "Reply Comments" on or before _____, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such "Comments" should be served on the Petitioner, as follows:

Richard J. Hayes, Jr., Esquire
Attorney at Law
13809 Black Meadow Road
Spotsylvania, Virginia 22553
Counsel to Columbiana Broadcasting Company

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b), of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 Fed. Reg. 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact _____, Mass Media Bureau (telephone) (202) _____. However, members of the public should note that from the time a "Notice of Proposed Rule Making" is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An ex parte contact is a message (spoken or written) officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the Petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any "Reply Comment" which has not been served on the person(s) who filed the "Comment," to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Chief, Policy and Rules Division
Mass Media Bureau

Attachment: Appendix

_____, 1993



OWL ENGINEERING, INC.

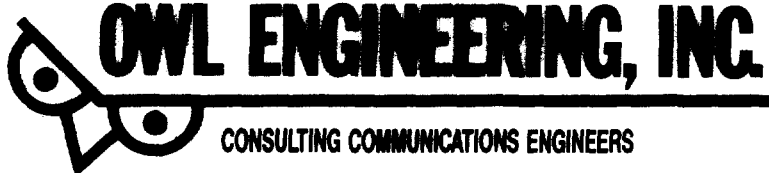
CONSULTING COMMUNICATIONS ENGINEERS

**1306 W. County Road F, St. Paul, MN 55112
(612) 631-1338 • Fax (612) 631-3502**

**ENGINEERING STATEMENT
ON BEHALF OF
COLUMBIANA BROADCASTING COMPANY
IN SUPPORT OF A PETITION TO AMEND
THE FM TABLE OF ALLOTMENTS
CHANNEL 268 TO COLUMBIANA, ALABAMA**

May 26, 1993

Copyright, 1993, Owl Engineering, Inc. Copying of this material by persons, firms or corporations for the purpose of appropriating it for use in competing applications is expressly prohibited. Permission is granted to the FCC or other interested parties to copy all or portions of this material for study purposed only.



CONSULTING COMMUNICATIONS ENGINEERS

1306 W. County Road F, St. Paul, MN 55112
(612) 631-1338 • Fax (612) 631-3502

**ENGINEERING STATEMENT
ON BEHALF OF COLUMBIANA BROADCASTING COMPANY
IN SUPPORT OF A PETITION TO AMEND
THE FM TABLE OF ALLOTMENTS
CHANNEL 268 TO COLUMBIANA, ALABAMA**

Owl Engineering, Inc. has been retained by Columbiana Broadcasting Company (hereafter CBC) to prepare this Engineering Statement in support of a petition to amend the FM Table of Allotments, FCC Rules Section 73.202(b) as follows:

<u>Location</u>	<u>Present</u>	<u>Proposed</u>
Columbiana, AL		268A

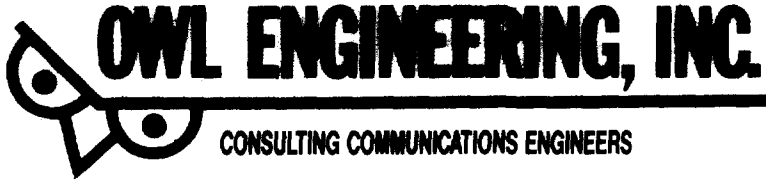
The reference coordinates used for this study are:

• 33 10' 04" North Latitude
86 38' 45" West Longitude

CBC's proposal will provide Columbiana, Alabama with first aural service.

The proposed site will provide 60 dBu (1 mV/m) signal coverage to a population of 82,576 persons encompassed by an area of approximately 2,508 square kilometers. Columbiana has a population of 2,968 based on 1990 U.S. Census data.

The proposal of CBC was evaluated to determine if the proposed coordinates would meet FCC spacing requirements. That analysis is attached as Engineering Exhibit E-1.

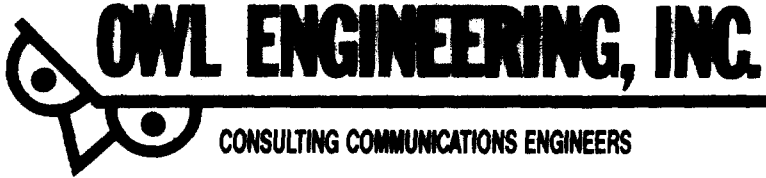


1306 W. County Road F, St. Paul, MN 55112
(612) 631-1338 • Fax (612) 631-3502

**ENGINEERING STATEMENT
ON BEHALF OF COLUMBIANA BROADCASTING COMPANY
IN SUPPORT OF A PETITION TO AMEND
THE FM TABLE OF ALLOTMENTS
CHANNEL 268 TO COLUMBIANA, ALABAMA**

As can be seen from exhibit E-1, CBC's proposal meets all FCC spacing requirements set forth in section 73.207 of the FCC Rules with a site restriction approximately 4 kilometers to the west of Columbiana. There would be approximately 47 square kilometers to select a suitable transmitter site to meet FCC spacing and city coverage requirements. The available area to locate a transmitter site is depicted in Engineering Exhibit E-2.

The proposal of CBC was evaluated to determine if the proposed site would meet FCC signal coverage requirements. The distance from the reference coordinates to the center city coordinates of Columbiana is 3.8 kilometers at a bearing of 72.4 degrees. The three to sixteen kilometer average terrain was computed using the NGDC data base and the distance to contours was computed using the FCC F(50,50) metric curves. The distance to the 70 dBu contour along the radial through the principle city was calculated to be 17.6 kilometers, surpassing the city by some 13 kilometers. Engineering Exhibit E-3 shows the 70 dBu signal contour plotted and demonstrates that all of Columbiana is encompassed by the 70 dBu contour. Engineering Exhibit E-4 shows the intervening terrain between the reference coordinates and Columbiana. As can be seen from this exhibit there are no major obstacles in the path to the principle city. Clearly, the proposal of CBC meets the requirements of FCC Rules section 73.315(a).



CONSULTING COMMUNICATIONS ENGINEERS

1306 W. County Road F, St. Paul, MN 55112
(612) 631-1338 • Fax (612) 631-3502

**ENGINEERING STATEMENT
ON BEHALF OF COLUMBIANA BROADCASTING COMPANY
IN SUPPORT OF A PETITION TO AMEND
THE FM TABLE OF ALLOTMENTS
CHANNEL 268 TO COLUMBIANA, ALABAMA**

Based on the engineering studies provided, the following conclusions can be obtained:

1. The proposal will provide Columbiana with a full time broadcast service.
2. The proposal will meet the requirements of FCC Rules Section 73.315.
3. The proposal will meet the requirements of FCC Rules Section 73.207.
4. The proposal will provide Columbiana with first aural service.



CONSULTING COMMUNICATIONS ENGINEERS

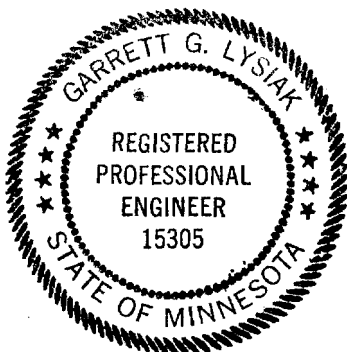
1306 W. County Road F, St. Paul, MN 55112
(612) 631-1338 • Fax (612) 631-3502

**ENGINEERING STATEMENT
ON BEHALF OF COLUMBIANA BROADCASTING COMPANY
IN SUPPORT OF A PETITION TO AMEND
THE FM TABLE OF ALLOTMENTS
CHANNEL 268 TO COLUMBIANA, ALABAMA**

AFFIDAVIT

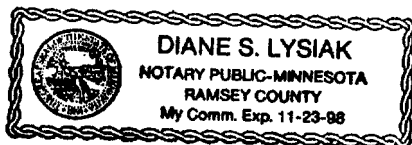
RAMSEY COUNTY)
)
STATE OF MINNESOTA) ss:

Garrett G. Lysiak, being first duly sworn, says that he is president of Owl Engineering, Inc., consulting communications engineers with offices in Arden Hills, Minnesota; that his qualifications as an expert in communications engineering are a matter of record with the Federal Communications Commission; that the foregoing exhibit was prepared by him and under his direction; and that the statements contained therein are true of his own personal knowledge except those stated to information and belief and, as to those statements, verily believes them to be true and correct.



Garrett G. Lysiak, P.E.

Subscribed and sworn to before me this date May 26, 1993



Diane S. Lysiak
Notary Public

My commission expires November 23, 1993



CONSULTING COMMUNICATIONS ENGINEERS

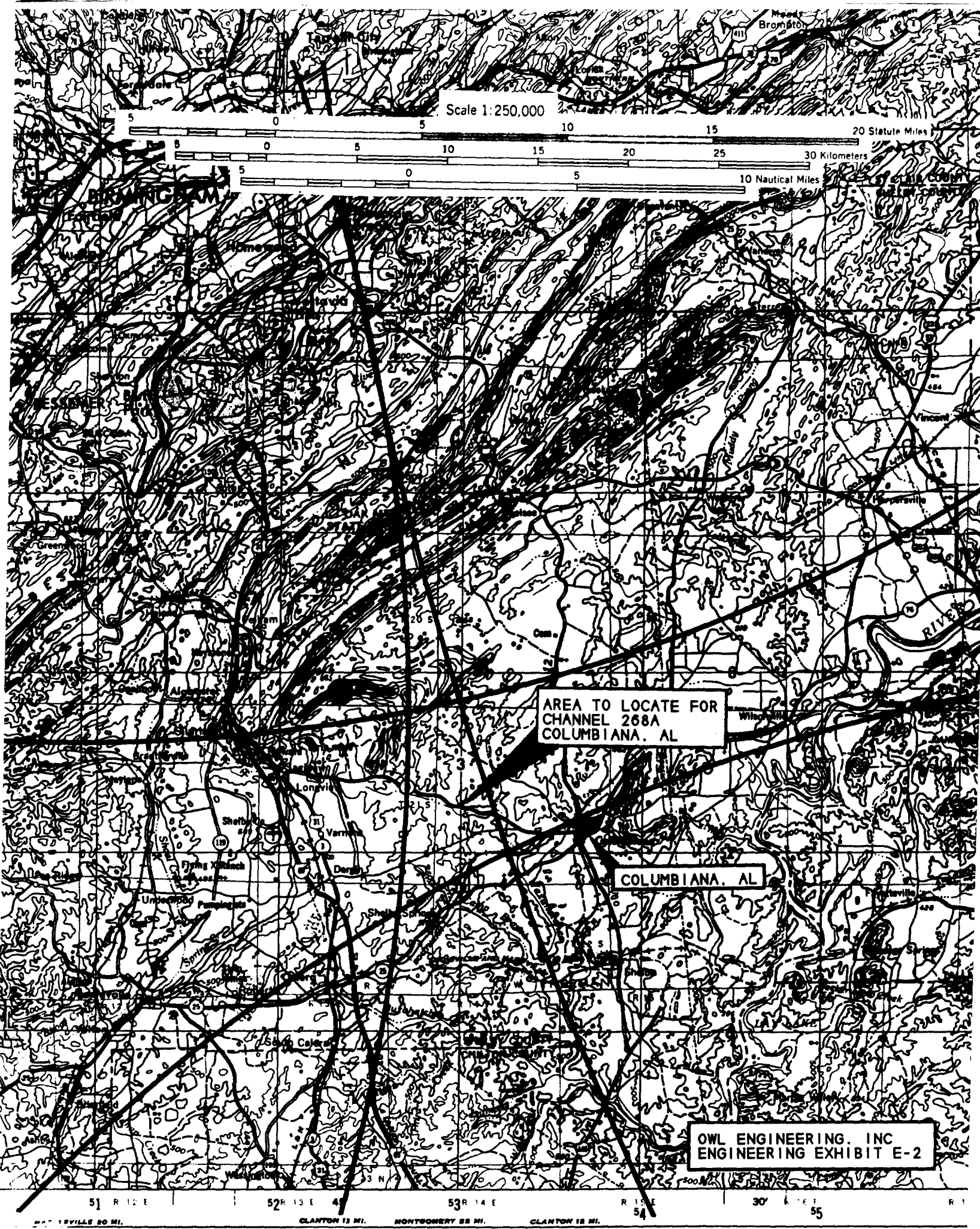
1306 W. County Road F, St. Paul, MN 55112
(612) 631-1338 • Fax (612) 631-3502

**ENGINEERING EXHIBIT E-1
COLUMBIANA BROADCASTING COMPANY
IN SUPPORT OF A PETITION TO AMEND
THE FM TABLE OF ALLOTMENTS
CHANNEL 268 TO COLUMBIANA, ALABAMA**

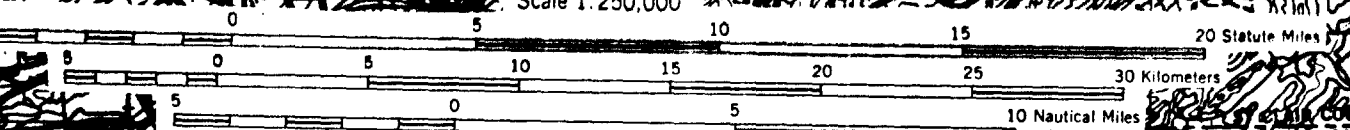
FM Channel 268-A

LATITUDE: 33 10' 4"
LONGITUDE: 86 38' 45"

CHNL	Call	City	Class	Calculated Km.	Required Km.	Clear- ance	Bearing
214		NO CONFLICT					
215		NO CONFLICT					
265		NO CONFLICT					
266		FAAL Cullman	C	113.99	95	18.99	349.78
266	WFMHFM	FMAL Cullman	C	104.15	95	9.15	346.85
267		NO CONFLICT					
268	WKHXFM	FMGA Marietta	C	225.69	226	-0.31	70.96
268		FAGA Marietta	C	225.69	226	-0.31	70.96
269		FAAL Reform	C2	125.77	106	19.77	270.76
269	WTID	FMAL Reform	C2	112.24	106	6.24	273.87
270	WHHYFM	FMAL Montgomery	C	94.67	95	-0.33	153.60
270		FAAL Montgomery	C	94.67	95	-0.33	153.60
271		NO CONFLICT					



Scale 1:250,000



AREA TO LOCATE FOR
CHANNEL 268A
COLUMBIANA, AL

COLUMBIANA, AL

OWL ENGINEERING, INC
ENGINEERING EXHIBIT E-2



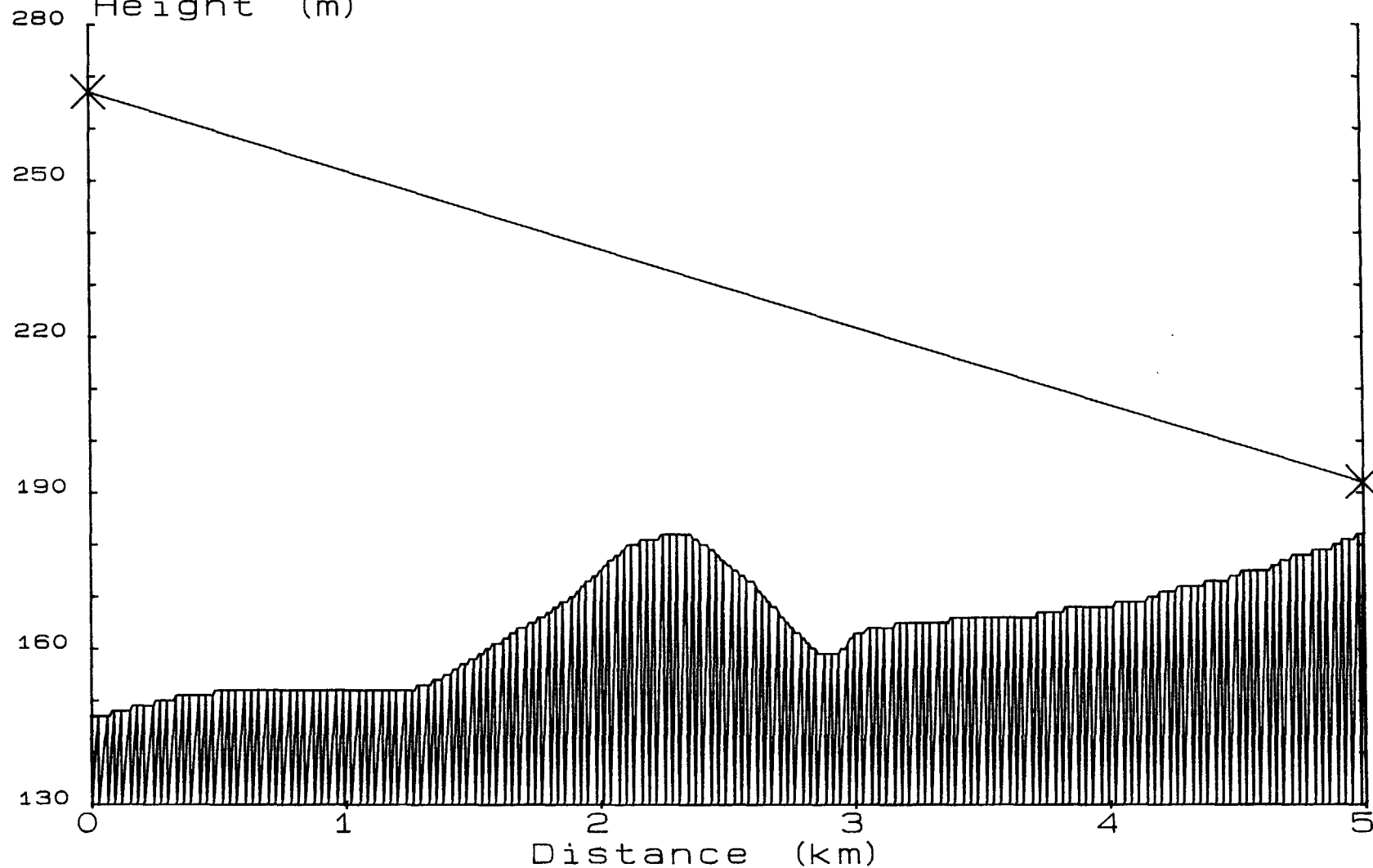
Scale 1:250,000

70 DBU CONTOUR

COLUMBIANA, AL

OWL ENGINEERING, INC
ENGINEERING EXHIBIT E-3

Height (m)



Profile Study for Columbiana, AL

Owl Engineering, Inc.
1306 W. County Rd. F

Saint Paul, Minnesota
(612) 631-1338

Engineering Exhibit E-4